

in a bona fide effort to fairly ascertain just compensation to protect equally the rights of the taxpayer and the property owner.

The value of property especially designed and constructed by agreement for Government use is not ordinarily determined by transactions between willing buyers and willing sellers in the market place. In such instances normal appraisals, based on the price a prudent buyer would pay, cannot be used and it is the duty of the Department of Justice to examine Government procurement transactions to ascertain fairly just compensation predicated on the sum a prudent seller would or has required for similar property. The Government cannot fairly employ condemnation procedures to obtain a confiscatory or even a bargain acquisition. It is obviously unfair to pay a vendor who is a willing seller more than a condemnation defendant for similar property at the same time.

When property, designed and constructed by agreement for Government use, is condemned, the cost to the Government of similar property openly and competitively procured at the time of taking would be a fair measure of just compensation. It is considered that the element of value to the Government of the property acquired in condemnation should be admissible in all cases pertaining to property designed and constructed by agreement for Government use.

Excepting the power of conscription, there is no greater sovereign power than that of eminent domain. Great power arbitrarily exercised is tyranny. The Congress, the courts, and the executive branch must increasingly guard against abuse of governmental power.

#### ENFORCEMENT OF ORDERS OF ADMINISTRATIVE AGENCIES

The bill (H. R. 6788) to authorize the abbreviation of the record on the review or enforcement of orders of administrative agencies, was announced as next in order.

Mr. HRUSKA. Mr. President, may we have an explanation of the bill?

Mr. EASTLAND. Mr. President, this bill authorizes the several courts of appeals of the United States to adopt rules authorizing the abbreviation of the transcript and other parts of the record made before Federal administrative agencies when the orders of those agencies are to be reviewed by the courts of appeals. Under several existing statutes permitting appeals to the court of appeals from the findings and orders of administrative agencies, it is necessary for the administrative agency to prepare and file the entire record of the proceedings before the administrative agency. This oftentimes results in a voluminous record, much of it not pertinent to the matters under review. Many times, likewise, the record involves other applicants not a party to the appeal.

Under the authority conferred by this bill, the courts of appeals could, by special order or by stipulation of the parties, provide for the filing of only those materials which are relevant to the issues before the court. In such matters the courts of appeals must, of necessity, have some latitude, and this legislation affords them that latitude.

The bill also provides that when petitions are filed in different circuits to review the same agency order, the jurisdiction of all the petitions shall rest with the court of appeals in which the

first petition is filed but that court will have authority to transfer such cases to another court of appeals if it appears that the convenience of the parties and the interests of justice would be served. Under existing law the agency, by selecting the court in which it files the record, determines which court shall have jurisdiction.

Information submitted to the committee indicated that the adoption of this legislation would result in the saving of time on the part of the court of appeals. Since it is now incumbent upon the Federal agencies to prepare the record for filing in the courts of appeals, it is also likely that this legislation would result in a saving of time and expense on the part of the Federal administrative agencies.

For these reasons, the committee has recommended that the legislation be favorably considered.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

#### AMENDMENT OF MERCHANT MARINE ACT OF 1920—BILL PASSED OVER

The bill (H. R. 9833) to amend section 27 of the Merchant Marine Act of 1920 was announced as next in order.

Mr. TALMADGE. Over, by request.

The PRESIDING OFFICER. The bill will be passed over.

#### SALES AND EXCHANGES OF PUBLIC LANDS OF THE TERRITORY OF HAWAII

The Senate proceeded to consider the bill (H. R. 9500) to permit certain sales and exchanges of public lands of the Territory of Hawaii to certain persons who suffered a substantial loss by reason of the tidal wave of March 9, 1957.

Mr. MORSE. Mr. President, I appreciate the courtesy of the Senator from Washington [Mr. JACKSON] in supplying a thorough analysis of the legal relationship with respect to the lands covered by the bill H. R. 9500. It is clear, under the public law relative to land titles in Hawaii, that the Federal Government holds bare legal title to the lands covered by H. R. 9500. The Territory of Hawaii owns the beneficial interest in these lands. Under the existing law the bare legal title held by the United States has no money value. Consequently, no valuation of the Morse formula is involved. I agree with the statement contained in the memorandum of the Senator from Washington that the insertion of a comma after the word "auction" on page 1, line 8 would clarify the meaning of the bill. I have prepared such an amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 1, line 8, after the word "auction" it is proposed to insert a comma.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. MORSE. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a statement prepared by the Senator from Washington [Mr. JACKSON] on the bill.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT ON H. R. 9500 BY SENATOR JACKSON

H. R. 9500 would allow the Commissioner of Public Lands of the Territory, with the approval of the Governor and not less than two-thirds of the members of the Board of Public Lands, to sell public lands, at fair market value to persons who have suffered a substantial loss of real property by reason of the tidal wave of March 9, 1957.

Also, the Commissioner could exchange public lands for such damaged lands, after procuring the same approval, and the lands to be transferred must equal the value of the damaged lands just prior to the tidal wave and without considering the value of improvements.

It is my understanding that an objection has been raised to this bill, because it may perpetrate a violation of the Morse formula. So far as the power to sell is concerned, I understand that the Morse formula is satisfied, but that the addition of a comma after the word auction would clarify the meaning that such public lands can be sold without the necessity of an auction, but must be sold at fair market value. I would interpose no objection to the addition of such a comma.

The situation is somewhat different than the land exchange provisions, but I do not feel that the bill violates the purpose and intent of the Morse formula. It is certainly not the intention of the committee to perpetrate such a violation, nor to set a precedent for violations in the future.

The status of public lands in Hawaii is different from such status elsewhere in the Nation. The basic statute governing the status of such lands in the act of July 7, 1898 (30 Stat. 750; 48 U. S. C. sec. 661) which reads as follows:

"Sec. 661. Public lands; management and disposition

"The laws of the United States existing on July 7, 1898, relative to public lands shall not apply to such lands in the Hawaiian Islands; but the Congress of the United States shall enact special laws for their management and disposition: *Provided*, That all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States, or may be assigned for the use of the local government, shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes (July 7, 1898, No. 55 sec. 1, 30 Stat. 750)" (Resolution of Annexation).

The following sections of the United States Code set forth the various rules relating to leases, sales, exchanges, and use of the public lands. Section 73 of the Hawaii Organic Act (31 Stat. 154; 48 U. S. C. sec. 664) as amended, states "the laws of Hawaii relating to public lands. \* \* \* shall continue in force until Congress shall otherwise provide." Thus, the public lands of Hawaii are owned as follows: The United States owns legal title and certain rights to withdraw such lands for public purposes, and the Territory of Hawaii is the present owner of the equitable title, coupled with the power of administration, subject only to said right of withdrawal.

Under the circumstances, an exchange of damaged lands for lands equal to their value before the damage occurred would result

in a loss by the United States only so far as legal title is concerned. The Territory would suffer any resulting loss in beneficial interest. It is true, however, that the right of withdrawal would be transferred to the lands acquired by the Territory.

Since the public land laws of the Territory are frozen until Congress acts, the Territory has no way to remedy the losses from tidal waves through exchange programs. The Territory could, of course, pass disaster-relief legislation which would compensate or otherwise aid those injured by the tidal wave. The Territory apparently believes that an exchange program such as contemplated by the bill would be a more businesslike approach and perhaps a more satisfactory remedy for those who wish to continue their activity in a location removed from the tidal wave danger. The bill is intended, the committee is informed, to establish machinery necessary to encourage occupants to move away from the danger areas.

Delegate BURNS has informed me that the best precedent for this bill is furnished by Public Law 844 of the 84th Congress by which the Territory was authorized to exchange public lands for lands which had been covered by lava, after a volcanic eruption. The value of the land was required to be equal as of the date just preceding the eruption, and without regard to the value of the crops or improvements.

**THE PRESIDING OFFICER.** The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time and passed.

#### RELIEF OF CERTAIN ALIENS

The joint resolution (H. J. Res. 635) for the relief of certain aliens was announced as next in order.

**THE PRESIDING OFFICER.** Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

**MR. EASTLAND.** Mr. President, I offer several amendments, and ask that they be stated.

**THE PRESIDING OFFICER.** The amendments will be stated.

**THE LEGISLATIVE CLERK.** On pages 2 and 3, it is proposed to strike out sections 3 and 4, and insert the following new section 3:

SEC. 3. The Attorney General is authorized and directed to cancel any outstanding orders and warrants of deportation, warrants of arrest, and bonds, which may have issued in the cases of Ramon Rodriguez and Pedro Flores-Carrillo.

**THE PRESIDING OFFICER.** Without objection, the amendments are agreed to en bloc.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time and passed.

#### BILLS PASSED OVER

The bill (H. R. 11668) to amend section 39 of the Trading with the Enemy

Act of October 6, 1917, as amended, was announced as next in order.

**MR. TALMADGE.** Over, Mr. President, as not being proper calendar business.

**THE PRESIDING OFFICER.** The bill will be passed over.

The bill (H. R. 12126) to provide further protection against the introduction and dissemination of livestock diseases, and for other purposes, was announced as next in order.

**MR. HRUSKA.** Over.

**THE PRESIDING OFFICER.** The bill will be passed over.

The bill (H. R. 11477) to amend chapter 223 of title 18, United States Code, to provide for the admission of certain evidence, and for other purposes, was announced as next in order.

**MR. TALMADGE.** Over, as not being proper calendar business.

**THE PRESIDING OFFICER.** The bill will be passed over.

#### MEXICAN FARM LABOR

The bill (S. 4232) to amend title V of the Agricultural Act of 1949, as amended was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted, etc.,* That section 509 of the Agricultural Act of 1949, as amended, is amended by striking out "June 30, 1959" and inserting "June 30, 1960."

#### BILLS PASSED OVER

**MR. TALMADGE.** Mr. President, I ask that the following bills be passed over:

Calendar No. 2241, S. 2142, extension of restrictions on imported citrus fruits, figs, and fig paste;

Calendar No. 2248, S. 3648, Navaho Indian irrigation project and the San Juan-Chama project;

Calendar No. 2249, S. 654, enforcement of State statutes prescribing criminal penalties for subversive activities; and Calendar No. 2251, H. R. 6894, unmanufactured mica and mica films and splittings.

**THE PRESIDING OFFICER.** The bills will be passed over.

#### OPPORTUNITIES FOR SMALL-BUSINESS CONCERNS TO OBTAIN GOVERNMENT BUSINESS

The Senate proceeded to consider the bill (S. 3224) to improve opportunities for small-business concerns to obtain a fair proportion of Government purchases and contracts to facilitate procurement of property and services by the Government, and for other purposes, which had been reported from the Committee on Government Operations, with amendments, on page 3, line 14, after the word "payments", to strike out "made"; on page 4, line 2, after the word "and", to strike out "submitting" and insert "submitting"; in line 6, after "section 305 (a)", to insert "and"; after line 14, to strike out:

SEC. 7. Section 214 of the Small Business Act of 1953 (67 Stat. 238), as amended (15 U. S. C. 643), is amended further by striking

out the period at the end thereof and substituting therefor a comma and the following: "or (C) to be in the interest of assuring that a fair proportion of the total purchases and contracts for property and services for the Government are placed with small-business concerns. These determinations may be made for individual awards or contracts or for classes of awards or contracts."

At the beginning of line 24, to change the section number from "8" to "7"; on page 5, at the beginning of line 3, to change the section number from "9" to "8"; at the beginning of line 9, to change the section number from "10" to "9"; in line 21, after the word "and", to insert "after"; in line 24, after the word "the", where it appears the first time, to strike out "Government" and insert "United States"; on page 6, line 3, after the word "lien", to strike out "shall be" and insert "is", in the same line, after the word "to", to strike out "all" and insert "any"; at the beginning of line 5, to change the section number from "11" to "10"; at the beginning of line 8, to change the section number from "12" to "11", and, at the beginning of line 11, to change the section number from "13" to "12"; so as to make the bill read:

*Be it enacted, etc.,* That section 302 (a) of the Federal Property and Administrative Services Act of 1949 (63 Stat. 393), as amended (41 U. S. C. 252 (a)), is amended further to read as follows:

"(a) The provisions of this title shall be applicable to purchases and contracts for property or services made by—

"(1) The General Services Administration, for the use of such agency or otherwise; or

"(2) any other executive agency (except the departments and activities specified in title 10, United States Code, section 2303 (a)) in conformity with authority to apply such provisions delegated by the Administrator in his discretion. Notice of every such delegation of authority shall be furnished to the General Accounting Office."

SEC. 2. Section 302 (c) of the Federal Property and Administrative Services Act of 1949 (63 Stat. 393), as amended (41 U. S. C. 252 (c)), is amended further—

(a) by revising paragraph (3) to read:

"(3) the aggregate amount involved does not exceed \$2,500;"

(b) by renumbering paragraphs (9), (10), (11), (12), (13), and (14) as paragraphs (10), (11), (12), (13), (14), and (15), respectively; and

(c) by adding, immediately after paragraph (8), a new paragraph (9), reading as follows:

"(9) for perishable or nonperishable subsistence supplies;"

SEC. 3. Section 302 (e) of the Federal Property and Administrative Services Act of 1949 (63 Stat. 394; 41 U. S. C. 252 (e)) is amended by striking out "(9)," "(10)," "(11)," and "(13)," and substituting therefor "(10)," "(11)," "(12)," and "(14)," respectively.

SEC. 4. Section 305 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 396), as amended (41 U. S. C. 255), is amended further to read as follows:

"SEC. 305. (a) Any executive agency may—

"(1) make advance, partial, progress, or other payments under contracts for property or services made by the agency; and

"(2) insert in bid solicitations for procurement of property or services a provision limiting to small-business concerns advance or progress payments.